UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1991/SR.10
11 February 1991

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Forty-seventh session

SUMMARY RECORD OF THE 10th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 4 February 1991, at 3 p.m.

Chairman:	Mr. AMOO-GOTTFRIED	(Ghana)
later:	Mr. BERNALES BALLESTEROS	(Peru)

CONTENTS

Question of the violation of human rights in the occupied Arab territories, including Palestine (continued)

The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 3.30 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (continued) (E/CN.4/1991/6-8, 60-62 and 65; A/45/3, 13 and Add.1, 35 and Corr.1, 84, 306, 503, 576, 595, 608-614 and 726)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9) (continued) (E/CN.4/1991/13 and 14; E/CN.4/1991/NGO/2; A/45/488)

1. Mr. MARKIDES (Cyprus) said that the concepts of freedom of the individual, the full enjoyment of human rights, and peace and international order, were based on the right to self-determination. Self-determination was inseparably linked with the national history of most United Nations Member States and fully accorded with the principle of non-intervention, whereas older concepts such as absolute sovereignty, spheres of influence and national determinism clearly conflicted therewith.

2. The right to self-determination was particularly important from the purely internal viewpoint, in that its exercise enabled a people to create a development framework which protected and promoted individual human rights in accordance with that people's own values. With regard to its external implications, its exercise should enable a people as a whole - constituted in an independent, sovereign State - to determine its political status at the international level.

3. A most recent example of the denial of self-determination was Iraq's invasion and purported annexation of Kuwait. Implementation of the Security Council resolutions condemning that invasion, and the allied forces' efforts to liberate Kuwait and restore its lawful Government, were in keeping with the external implications of the right to self-determination. Cyprus, which was itself a victim of occupation by a powerful neighbour, hoped that hostilities in the Gulf would speedily end with the least possible loss of life and would provide an opportunity to forge, for the current and future generations, a new world order in which the right of self-determination would govern the conduct of nations.

4. Self-determination was the right of a people as a whole, not of a segment of a people. Like many other rights, it could be distorted to suit secessionist movements or expansionist aims, at the expense of the political unity and territorial integrity of independent and sovereign States. Therefore, the main international instruments regulating the exercise of that right, such as the Charter of the United Nations, the Declaration on the Granting of Independence to Colonial Countries and Peoples, the International Covenants on Human Rights and the Final Act of the Conference on Security and Co-operation in Europe, all proclaimed as incompatible with the purposes and principles of the Charter, and the norms of international law, any attempt to impair such unity or integrity under the pretext of the right to self-determination. Moreover, discussion in the Sixth Committee and other forums had confirmed the overwhelming view that acceptance of the principles of territorial integrity and political unity of States clearly implied the non-recognition of any right of secession; in no United Nations instrument or practice did such a right exist.

5. Nevertheless, history contained many instances of moves by ethnic, religious, linguistic or other minorities living within the internationally recognized frontiers of an independent, sovereign State to invoke the right to self-determination in order to establish a separate entity. Such efforts not only contravened international law but were deemed highly unwise. Hardly a single modern independent, sovereign State could maintain its unity and territorial integrity if all such minorities - which were protected, in any case, by a series of human rights provisions - sought separate sovereignty.

6. It would, of course, have been unheard of to claim self-determination for an occupied part of a sovereign State's territory, from which a majority of the population had been expelled, or to claim self-determination in violation of the concept of national independence. Indeed, in a situation of occupation, it was the right to self-determination inherent in State sovereignty which justified moves to restore the freedom usurped.

7. Recent events in Europe constituted a triumph for internal self-determination. It was to be hoped that more would be accomplished in external self-determination and the ending of all foreign occupation. Self-determination did not create artificial divisions but abolished them, and it was hoped that the latter effect would soon prevail throughout the world without exception.

8. Mrs. LYAGOUBI-OUAHCHI (Observer for Tunisia) said that the world community was being defied by a colonialist and racist Power which continued to deny the Palestinian people its inalienable right to self-determination and independence. The fact that the intifada had entered its fourth year, showing a strength of spirit which could not be crushed by the oppressor's might, raised the question of how long the world could tolerate the occupiers' oppression. Her delegation reiterated its condemnation of Israel's continued flouting of all the relevant United Nations resolutions and the 1949 Geneva Conventions, and its call for firm measures to make Israel desist from its expansionist policies and practices, which violated the rights of other peoples, including their right to their own homelands.

9. Israel had been called upon, in numerous decisions and resolutions, to cease rejecting international initiatives aimed at a just, global solution, vital to peace and security in the Middle East, which could not prevail until the Palestinians' right to national statehood had been secured. Her Government called upon the international community to take all necessary steps to implement the relevant resolutions and support all the peace initiatives, including the convening of a conference on the Middle East, with the participation of all interested parties, including the Palestine Liberation Organization, the Palestinians' sole legitimate representative. Her delegation had recently drawn the Security Council's attention to the need to convene such a conference in 1991 and had stressed the need to apply the principle of international legitimacy without exception. The world community must seek a speedy settlement of the region's conflicts, in order that the human rights of all could be upheld and the most flagrant injustice known to man could be ended.

10. Mr. RAMLAWI (Observer for Palestine) said that the Palestinian people's right to self-determination stemmed from divine law as well as international law. There was surely no difference of opinion anywhere about that right.

The issue was at the heart of the current conflict in the region, despite efforts by Israel, the United States and other allied nations to conceal the fact. Attempts to deny Palestinians their right to self-determination had been at the root of such problems ever since the First World War and the time of the League of Nations. The latter had recognized the Palestinians' rights, but that recognition had been ignored for over two decades, due chiefly to the influence of the mandatory Power, the United Kingdom, and its efforts to implement the Balfour Declaration.

11. The United Nations had subsequently recognized, by Security Council resolution 181 (1947) - which the United States had supported - the Palestinian people's right to self-determination. Nevertheless, despite subsequent attempts by all United Nations bodies to reaffirm that right, its exercise was still being prevented. Indeed, as a result of international conspiracy and force of arms, that right had been usurped: Jewish settlers had been introduced in furtherance of Israel's policy of expansion at the expense of neighbouring Arab nations and despite the General Assembly's recognition of the State of Palestine. International efforts to assert that right were constantly thwarted, because of unwarranted obstruction by the United States delegation in the Security Council.

12. The right to self-determination was upheld by the Charter, international law and relevant internationally adopted texts, including the Declaration on the Granting of Independence to Colonial Countries and Peoples.

13. The current war in the Gulf showed that his delegation had been correct in warning, for many years. that persistent denial of the Palestinians' right to self-determination was bound to result in conflict. The purpose of the military operations had been successively announced by the United States as the protection of Saudi Arabia, the liberation of Kuwait and the destruction of Iraq's military structure and current system of Government; but the real aim was to protect Israel, eliminate the Palestinians and establish in the region a new order under which one Power would be dominant.

14. The United States' attempts to achieve objectives at variance with the purpose of the relevant Security Council resolutions threatened to undermine the Council's credibility and had led, inter alia, to the resignation of the Foreign Minister of France and the announcement of reservations by Pakistan and Morocco. World public opinion would not be misled; it was clear that the United States, as soon as it had asserted military superiority in the region, would begin to unmask its true intentions, including the securing of Israel's dominance.

15. The Palestinians were fully aware of the true situation and sought to restore their usurped rights by supporting their sister nation, Iraq. It was quite clear that, unless the world heeded the calls for peace and justice in the region and for an international conference in accordance with the relevant United Nations resolutions, peace and security in that part of the world could never be guaranteed.

16. Mr. SEMICHI (Observer for Algeria) said that with regard to the agenda item that the events taking place in the Middle East made it necessary for the Commission to seek as rapidly as possible a solution to a problem which the international community, despite its constant efforts, had so far been unable

to resolve. That was the question of Palestine and, more especially the exercise by the Palestinian people of its right to self-determination, which had become the focal point of all the other crises currently facing the world and, more than ever before, a prerequisite for the restoration of confidence and the achievement of peace for the peoples of the region.

17. To deny that reality was to help increase tension and aggravate the repression that weighed daily on the Palestinian people which, deprived of its means of defence, was demonstrating with unflinching courage its determination to make good its inalienable national rights. The unshakeable will of the men and women constrained within the limits laid down by the Zionist enemy and their constant resistance to deadly weapons of mass oppression had found a significant expression in the heroic intifada, which commanded the respect of all who cherished justice and peace.

18. Full implementation of the decisions of the General Assembly would enable the Palestinian people to regain its legitimate national rights and to establish its independent State, in a part of the world whose primary vocation of which was to bring men together in a communion of peace and harmony.

19. The right of peoples to self-determination necessarily implied their right to independence and the free exercise of their national sovereignty. In that connection, the United Nations had set up appropriate machinery to supervise the process of emancipation of peoples under colonial domination or the trusteeship of foreign Powers. That machinery, the Special Committee, known as the Committee of 24, had been entrusted with the task of monitoring the implementation of General Assembly resolution 1514 (XV) on the Granting of Independence to Colonial Countries and Peoples. In carrying out its mandate, that Committee had demonstrated the commitment of the United Nations to the mission assigned to it by the Charter in the field of decolonization.

20. The exercise of the right to self-determination had enabled every country, whether large or small, to select its political and economic option and to organize its social development freely while respecting its traditions and its cultural heritage. However, there were still peoples under colonial or foreign occupation, which were deprived of enjoyment of their political rights and unable to determine their economic system freely and exercise sovereignty over their natural wealth.

21. That had been the case of Namibia a few months previously. That was the colonial fact which still characterized the life of the black South African. The reports that were prepared on the subject periodically and submitted to the Commission confirmed clearly that irrefutably that the vast resources of South Africa were being exploited by the white minority in collaboration with the multinational companies in blatant disregard of the relevant United Nations resolutions and the interests of the indigenous peoples.

22. The Commission was aware that some positive developments were occurring that were conducive to the advent of an egalitarian régime to replace the odious system that was still in place. However, it was only realistic to maintain a certain reserve and to bear in mind that it was only as a result of the complete dismantlement of apartheid and the effective exercise on a truly democratic basis of the rights of all the population groups in South Africa that the South African people would be able to announce that it had realized its right to self-determination.

23. It was undeniable that the foreign occupation of a territory constituted a manifest violation of the right to self-determination. There were, however, situations of the kind in Africa and elsewhere that had been produced with the help of mercenaries. Such subversive activities constituted not only a threat to peace and international security but also an obstacle to the exercise of self-determination.

24. Among the peoples which had not yet exercised their right to self-determination and independence, mention should be made of the people of Western Sahara. Since the United Nations had been entrusted with the consideration of the question of Western Sahara, there had been a virtually universal recognition of the fact that the Saharan people needed to be free to enjoy its legitimate national rights.

25. Some progress had been made in dealing with that question in terms of a process leading to the holding of a referendum for self-determination of the Saharan people, organized and supervised by the United Nations. The Secretary-General, supported by the Organization of African Unity, had undertaken to promote a dialogue and co-operation with the parties concerned, i.e. Morocco and the leaders of the Frente POLISARIO, with a view to optimizing the conditions of the referendum. His delegation welcomed the progress that had been made in that direction, which would undoubtedly result in a solution of the problem.

26. Mr. LUONG MINH (Observer for Viet Nam) said that, first of all, his delegation wished to congratulate the Namibians who, after so many years of suffering and struggle, had gained their independence and exercised their right to self-determination.

27. At the same time, however, it did not forget that colonialism and neo-colonialism still existed in many parts of the world. The abhorrent system of apartheid in South Africa had deprived the black majority not only of its right to self-determination but also of its basic human dignity. The Palestinians in the occupied territories were still subjected to Israeli domination and suppression.

28. As for the question of Cambodia, the Jakarta meetings, the talks between the Cambodian sides and the Paris International Conference on Cambodia had produced some encouraging results.

29. Mention should be made of the formation of the Supreme National Council of Cambodia, the approval by all Cambodian parties of the recommendations by the permanent members of the United Nations Security Council, the adoption by the General Assembly of a non-confrontational and constructive resolution on the question of Cambodia, and the agreements on a broad range of issues reached by the 12 members of the Supreme National Council at their meeting in Paris with the two Co-Chairmen of the Paris Conference and the representative of the Secretary-General.

30. At a recent meeting in Hanoi between the two Co-Chairmen of the Paris Conference, the representative of the Secretary-General and the Foreign Minister of Viet Nam, the Vietnamese side had reaffirmed its approval of the framework document advanced by the permanent members of the Security Council in August 1990 as a basis for the settlement of the Cambodian conflict.

31. Viet Nam's position with regard to a comprehensive political solution to the Cambodian issue was clear: while supporting the efforts by the international community to solve the international aspect of the problem, it maintained that the internal affairs of Cambodia must be solved by the Cambodians themselves. Viet Nam would thus respect any agreement reached by the Supreme National Council of Cambodia.

32. Over the years, his delegation had always maintained that the core of the Cambodian issue was the question of punishing the crime of genocide committed by the iniquitous Pol Pot régime, in accordance with the Convention on the Prevention and Punishment of the Crime of Genocide, and preventing a recurrence of such crimes. In fact, the Jakarta meetings had agreed on the need to eliminate the genocidal Pol Pot régime as one of the two key issues of a comprehensive political solution.

33. At the previous session of the Commission, many delegations had demanded punishment of the crime of genocide committed by the Pol Pot régime and measures to prevent its return to power. However, the document by the permanent members of the Security Council made no mention of the matter and should be amended to include measures to that end, since the crime of genocide could not be condoned.

34. Mr. GOKCE (Turkey) said that denial of self-determination to peoples legally entitled to it not only constituted a violation of a fundamental right but also seriously endangered regional and world peace. On the other hand, it should be borne in mind that any attempt to destroy the integrity of a country was also incompatible with the purposes and Principles of the Charter of the United Nations. The right to self-determination should not be misinterpreted or misused by minorities. Self-determination was a right of "peoples" and not of "minorities" within a nation.

35. In States formed by separate founding communities, or peoples, enjoying the status of corporate political bodies, those communities were entitled to have equal rights to determine their own future in the exercise of their right to self-determination, irrespective of their numerical size. Where a State had been brought about through the use of the right of separate self-determination by such peoples or political bodies, the right of self-determination could be resorted to if the common State, or partnership State ceased to conduct itself in compliance with the principles of human rights.

36. In a bi-communal State set up by the agreement of two communities or peoples, one of those peoples could not be excluded by the other from taking part in the political process or be deprived of its right to self-determination under any pretext whatsoever. It was imperative that such special situations should be taken into account and an examination carried out of the conditions leading to the establishment of such a State, the cardinal condition being that one community should not rule over the other and that the legitimacy of the Government depended on the sharing of power in all the organs of the State.

37. The remedy if one of the parties denounced that cardinal condition and took up arms to make the co-founder partner community a minority within the State must clearly lie in the right of the community or the people so aggrieved to exercise its right of self-determination to avoid being colonized by the other.

38. An example of the traumatic consequences of the denial of the right to self-determination could be found in the plight of the Palestinian people. His delegation continued to believe that a just and lasting solution to the question of Palestine could be found on the basis of the withdrawal of Israel from the Arab territories occupied since 1967 and full recognition of the legitimate rights of the Palestinians, including the right to establish an independent State of their own together with an acknowledgement of the right of all sides in the region, including Israel, to live within secure and recognized boundaries. The proclamation of the State of Palestine had been an exercise of the Palestinian's right to self-determination which was inalienable and should be recognized as such by Israel.

39. The situation in Afghanistan continued to be a source of much concern. Despite the fact that a great deal had been accomplished in bringing the conflicting parties together, the need for a broad-based Government fully representing the Afghan people remained an essential component of any lasting settlement. His Government was determined to continue to help the Afghan people and the Afghan refugees. Pakistan's generosity and patience in bearing the brunt of the burden of providing shelter to the Afghan refugees continued to deserve much praise.

40. With regard to the situation in Cambodia, his delegation was gratified at the decisions taken by all the Cambodian parties meeting at Jakarta in September 1990, and hoped that their implementation would help to achieve peace in that country.

41. Turkey was very pleased to welcome Namibia as a new member of the family of nations and had promptly established diplomatic relations with it. Namibian independence plus the developments that had begun with the freeing of Mr. Nelson Mandela and the progress towards the dismantling of apartheid in South Africa gave reason to hope that the world was witnessing the dawning of a more promising era in the southern part of the African continent.

42. Mr. ERMACORA (Austria) said that the right to self-determination was a right of peoples, as embodied in article 1 of each of the International Covenants on Human Rights, and that it was the Commission's task to promote the realization of that right.

43. As discussed in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, there were different models of self-determination. Free elections represented one model, while the unification of Germany represented another.

44. The Commission and the Sub-Commission on Prevention of Discrimination and Protection of Minorities had before them two studies concerning United Nations practice with regard to self-determination, both of which dated from the 1970s. Since then, there were many new factors that had to be taken into account, including the changes in Central and Eastern Europe, with all their implications; the unification of Germany; the occupation and illegal annexation of Kuwait by Iraq; the successful implementation of the right to self-determination in Namibia, after a long process in which the United Nations had played an important role; the increasing recognition of the need for a

process leading to self-determination in South Africa; and United Nations resolutions referring to the right of self-determination of the Afghan people and of the Palestinian people to self-determination.

45. In drawing on the lessons of those experiences, it was necessary for the Commission to make it clear that the right to self-determination must be exercised by the people itself, and that Governments must develop structures to render that possible. The use of force against a people engaged in exercising its right to self-determination was a violation of that right.

46. While free elections were the most appropriate method of exercising the right to self-determination, there could be other models. It would be advisable for the Sub-Commission to renew its discussions with regard to the dimensions of self-determination, since only through careful analysis of that right could new misunderstandings be avoided.

47. Mr. MAHIGA (Observer for the United Republic of Tanzania) said that Israel's occupation of Arab territories, including Palestine, was a classic example of how the right to self-determination was still being denied.

48. The occupation of those territories had been accompanied for the past 24 years by a wholesale violation of human rights, as repeatably confirmed by independent human rights observers. In the period under review, the scope and intensity of human rights violations, and their dehumanizing impact, had increased.

49. The intifada, currently in its fourth year, was an expression of a people's desire for freedom. The excessive repression by the Israeli authorities called for a response from the international community. While many resolutions had been adopted by United Nations organs, none had been implemented. The international community should, at very least, adopt measures to protect the Palestinians who were routinely being killed and maimed in increasing numbers.

50. The Israeli policy of settling Jewish immigrants in the occupied territories would lead to further violence and tension in the whole region. The Palestinian issue would remain a source of conflict in the region and the world if no international initiative under the auspices of the United Nations was undertaken to resolve it.

51. His Government reaffirmed the right of the Palestinians to self-determination and to an independent State, while recognizing Israel's right to a secure and peaceful existence. The starting-point for progress towards those goals should be strict respect for human rights in the occupied territories, so as to generate the minimum level of trust required for negotiations involving all the parties to the conflict, including the Palestine Liberation Organization (PLO).

52. For decades, system of apartheid in South Africa had denied the majority of people in that country their civil, political, cultural and economic rights. The system of Bantustans, or so-called "home rule", was an empty façade. For many years, apartheid had also been a source of instability in the region, leading to widespread suffering and violations of human rights.

53. The announced intention to dismantle the system would be meaningful only if it was implemented in full, and a democratic, non-racial system was established through the exercise of democratic rights by all the people of South Africa.

54. His delegation fully supported the initiative undertaken by the Secretary-General and the Organization of African Unity to achieve the realization of the right to self-determination for the people of Western Sahara.

55. Mr. AL-NOURI (Observer for Kuwait), reviewing his country's history, said that the Kuwaiti people had chosen their destiny from the establishment of the Kuwaiti State in 1711 - well before the emergence of modern Iraq as a State in the 1920s - until Iraq's invasion of Kuwait on 2 August 1990, in violation of the right of the Kuwaiti people to self-determination. Kuwait's existence as an independent State had been reconfirmed in 1963 when an important agreement had been signed between Iraq and Kuwait, in which Iraq had recognized Kuwait's full sovereignty within its recognized borders, as mentioned in the letters exchanged between the Governments of the two countries in July and August 1932.

56. Since the Iraqi régime did not acknowledge the principles of international law, it was not surprising that Iraq should deny the existence of a border agreement with Kuwait. If the civilized international community had condoned such irresponsible behaviour, that would have ushered in an era of endless chaos in international relations.

57. If it were true that Iraq had some genuine issues to take up with Kuwait, he wondered why Iraq had refused the repeated Kuwaiti invitations to submit those claims to the International Court of Justice, and the Kuwaiti proposal that an Arab committee should be established to review the problems between the two countries. If Iraq refused to recognize the frontiers inherited from colonialism, then the question arose as to how the borders between Iraq and its other neighbours had been determined.

58. The Iraqi régime's sole objective was to abrogate the right of the Kuwaiti people to self-determination. The will of the Kuwaiti people was embodied in the Constitution of Kuwait, which had been promulgated by the Constituent Council elected in 1962. The Constitution was fully in keeping with the traditions and aspirations of the Kuwaiti people, and it vested sovereignty in the nation as the source of all power.

59. The scenario followed by Iraq in its occupation of Kuwait gave the lie to the Iraqi claims. Initially, Iraq had accused the United Arab Emirates and Kuwait of overstepping their oil production quotas, thus adversely affecting the Iraqi economy. It had also accused Kuwait of stealing oil from the Rumaillah oil field in Iraq - as if Kuwait, which contributed the highest percentage of its national income in foreign aid, had been in need of Iraqi oil. Iraq's appropriation of Kuwait's oil resources had shown who the real thief was. In any case, the Iraqi claims did not justify its invasion and occupation of Kuwait, the looting of its wealth and the violation of the rights of Kuwaiti citizens and of foreign nationals living in the country.

60. Iraq later asserted that it had invaded Kuwait in response to appeals from the Kuwaiti people, and had established a "provisional" Government. Iraq had also declared its intention of withdrawing its forces on 5 August 1990, but such a withdrawal had not occurred. On the same date, the so-called "free Kuwaiti Government" had announced the establishment of the "Republic of Kuwait". Next, Iraq had announced the annexation of Kuwait, on the pretext that Kuwait had formerly been part of Iraq. It was then that the Kuwaitis had lost their right to a political, cultural and social identity.

61. The Iraqi occupation authorities had annexed a large part of Kuwaiti territory; forced Kuwaiti citizens to adopt Iraqi nationality; changed the names of streets, hospitals, schools and public buildings; equated the Kuwaiti dinar with the Iraqi dinar; placed Kuwait on Iraqi time, although there was a one-hour difference between the two countries; replaced photographs of the Kuwaiti Emir and Crown Prince with photographs of Saddam Hussein in all public places; and settled Iraqi families in Kuwait.

62. The Kuwaiti people, in the most difficult and dangerous circumstances, had reaffirmed their right to self-determination and their loyalty to the Constitution and the legitimate Government of Kuwait, thus winning the respect and support of the entire world. The Iraqi invaders had not found a single Kuwaiti who had been willing to co-operate with them, despite their acts of terrorism. The Kuwaitis living abroad, representing more than one half of the population, had condemned the invasion, while Kuwaiti families had preferred to leave the country rather than submit to occupation.

63. Mr. KIRKYACHARIAN (Movement against Racism and for Friendship among Peoples) said that, in the context of the world-wide trend towards unification, there was a growing contrast between the aspirations for greater democracy and well-being and the routine denial of those aspirations. Many groups viewed the trend towards unification as contrary to their own particular values and therefore demanded the freedom to be different. Demands were increasingly being voiced for the right to self-determination.

64. At a previous session of the Commission, the representative of Yugoslavia had stated that the right of minorities to self-determination was not one of the founding principles of the United Nations. However that might be, the right in question was included in the Constitution of Yugoslavia, which even provided for the right to secession. The situation with regard to the Albanian population of Kosovo had worsened since the Commission's previous session. While physical repression seemed to have diminished, many persons continued to be imprisoned merely for expressing opinions. Political organizations had been dismantled, and the Serbian authorities had taken over direct administration of the province.

65. Many Serbians felt that a campaign of disinformation and slander had been directed against them. While there had been much progress in Yugoslavia towards "cultural" autonomy, narrowly defined, it was not enough merely to give dependent peoples the opportunity to speak and write in their own language. Such autonomy must point the way towards political self-determination.

66. Inter-ethnic problems could not be solved through repression, but only through democratization. That was a lesson which must be drawn by the Soviet Government in relation to the Baltic States and by the Turkish Government in relation to its Kurdish population.

67. With regard to the Gulf War, his organization's main concern was preventing the development of anti-Arab and anti-Jewish sentiment in Europe as a whole and in France in particular. In so doing, it endeavoured to show that it was the policies of the Israeli Government which were chiefly endangering the Israeli people.

68. Concerning the question of East Timor, he fully endorsed the proposal made at the previous meeting by the representative of Portugal.

69. It had been reported that members of the Tamil civilian population of Sri Lanka had been used as human shields by the security forces. The information should be thoroughly investigated and, if it turned out to be true, such practices must be condemned in no uncertain manner.

70. Mr. PRIELAIDA (International Federation of Free Journalists) said that, at the time of the Commission's previous session, there had been a thaw which reduced the tension between East and West, and a number of countries in Eastern Europe had begun an irreversible march towards the independence of which they had been deprived by the conflict between Nazi Germany and the Soviet Union. That liberalization process had also given rise to hope among the peoples who had been forcibly incorporated into the Soviet Union by the Germano-Soviet pact of 23 August 1939 but currently, as a result of the conflict taking place in the Gulf, there were few references to the Baltic States.

71. His organization strongly condemned the invasion of Kuwait, as it had previously condemned the genocidal attacks, using poison gas, on the Kurds, by the same dictatorship. Unanimous voices condemning the invasion of Kuwait had been heard throughout the world and respect for sovereignty must be guaranteed by the international community.

72. He would like to know, however, how many voices had been raised to condemn and advocate sanctions against another invader who, taking advantage of the tension in the Gulf, had dispatched his elite troops to the city of Vilnius.

73. On the night of 12-13 January 1991, those troops had entered into action against unarmed civilians, crushing them under their tanks and machine-gunning them merely because they had proclaimed the restoration of their independence. On 13 January 1991, the President of the Lithuanian Parliament had, in a letter signed also by the leaders of Latvia, Estonia and the Russian Federal Republic, called upon the Secretary-General of the United Nations to convene as a matter of urgency an international conference to resolve the Baltic problem.

74. The Soviet Union seemed unable to bring itself to release the Baltic countries. While recognizing the illegality of its occupation of those countries, it had no proposals other than a new Union treaty. Self-determination was dependent upon the approval of other republics of the Union and not on the will of the republics concerned.

75. His delegation hoped that the Commission would adopt, at its current session, a resolution recognizing the right of the Baltic peoples to determine their own destiny without interference from foreign troops and to hold a referendum under United Nations auspices. He appealed to the Commission to act as spokesman for the Baltic governments, which had no access to it to express their plea for help.

76. Moscow had sent paratroopers to search for, arrest and deport young Lithuanians who refused to serve in the occupation army. The Soviet authorities had seized the communications media which, under the control of the State, provided disinformation regarding the true situation in the various republics of the Union. Democratization of the Soviet Union, despite substantial progress, still remained to be achieved.

77. His Federation hoped, however, that the emancipation of the other countries of Eastern and Central Europe would continue, thereby enabling those other peoples to regain their human dignity and their national dignity.

78. Mr. Bernales Ballesteros (Peru) took the Chair.

79. Mr. ZAFAR (Pakistan), speaking in exercise of the right of reply, said that the representative of India had repeated the contention that the Kashmir dispute did not exist and that Kashmir was an "integral" part of India. In so doing, he had denied the legality of the relevant Security Council resolutions on the subject, which had ruled that Kashmir was a disputed territory and had called for a free and impartial plebiscite there.

80. India was denying the people of Kashmir its right to self-determination. Yet India's own Prime Minister, Mr. Nehru, had categorically stated in a speech before the Indian Parliament in 1951 that the people of Kashmir must be allowed to decide for itself. When, in 1957, the so called "Constituent Assembly" in Indian-occupied Kashmir had attempted to determine the status of the disputed territory, the United Nations had adopted resolutions invalidating that effort and reaffirming the earlier call by the United Nations for a free and impartial plebiscite.

81. The contention that the Simla Agreement of 1972 had altered the status of Jammu and Kashmir as a disputed territory had no legal justification whatsoever. The Agreement specifically provided that the Charter of the United Nations was to govern relations between the parties and that differences were to be settled by peaceful means. It spoke of a "line of control", as distinguished from an international border, and protected the recognized positions of both sides. It also referred to the need to agree upon a final settlement of the Jammu and Kashmir question.

82. The issue thus remained on the Security Council's agenda. Articles 34 and 35 of the Charter specifically empowered the Security Council to investigate any dispute, whether independently or at the request of a Member State. Those provisions could not be made subservient to any bilateral agreement.

83. The representative of India had also made the wild and unfounded allegation that Pakistan was intervening in Kashmir and, by so doing, in the internal affairs of India. Objective reports by scores of foreign journalists

had shown that the Kashmiri struggle for self-determination was an indigenous one. For its part, his delegation had proposed, at the forty-sixth session of the Commission, the setting up of a neutral mechanism under the auspices of the United Nations or a panel of neutral countries to monitor and investigate the Indian allegation. India had rejected that proposal, which his own delegation formally repeated.

84. The Indian representative had made a gratuitous reference to domestic events in Pakistan, apparently forgetting how the rights of minorities were being trampled upon in his own country. The Pakistani delegation could have drawn attention to the inter-communal riots and other problems of the unfortunate minorities in India, whether Sikhs, Assamese or Muslims, and the violation of their human rights, but it had chosen not to do so, since the topic was self-determination. India undoubtedly had greater experience in maintaining a caste system and in imposing "direct rule" on provinces, all in the name of "democracy and constitutional guarantees for human rights".

85. His Government was not prepared to barter away the basic rights of the Kashmiri people, including its right to self-determination, but it remained committed to the United Nations resolutions on the disputed territory and to the Simla Agreement and continued to seek a peaceful solution to the dispute. Threats and the use of force in Jammu and Kashmir would not affect its resolve.

86. Mr. AL-KADHI (Iraq), speaking in exercise of the right of reply, drew attention to the double standard reflected in the statement made by the Minister for Foreign Affairs of Sweden, for whom there existed two types of human rights, those that must be defended and those that could be trampled upon. The Swedish Minister had made no reference to the death and destruction that the Arab Palestinian people must endure daily. The hypocritical nature of the Western countries' discourses on freedom and liberty was unmasked by their barbarous attack upon Iraq.

87. The Swedish Minister had spoken of missile attacks by Iraq, but had disregarded the fact that the total destructive force of the bombs dropped on Baghdad was four times as great as that of the bomb dropped on Hiroshima. He had also alleged that Iraq had spilt oil into the Gulf, but had ignored the fact that the United States and its allies had bombed Iraqi tankers and oil refineries in Iraq. Apparently, for the Swedish Minister, the pollution of the Gulf was a crime against humanity, but the pollution of Iraqi territory and attacks against Iraq's peaceful nuclear installations were not.

88. The delegation of Japan had made similar comments in its effort to fall in line with the United States. His delegation would have expected Japan to take a different position, that country having already been subjected to the hatred of the United States, which had dropped atomic bombs on Hiroshima and Nagasaki in an effort to shatter Japan's national will.

89. The delegation of the United Kingdom had admitted that a number of Iraqi students had been detained as prisoners of war, the basis of the detention being doubts as to possible actions against the security of the United Kingdom. His delegation was surprised to hear that United Kingdom law was applied on the basis of doubts or suspicion, since it was sure that no national law passed judgement on the basis of intention, without the prior commission of an unlawful act. The detention of Iraqi students was thus

illegal and in flagrant violation of article 4 of the Third Geneva Convention, which defined the status of prisoners of war. The United Kingdom's position was contrary to international humanitarian law and to fundamental democratic principles.

90. A statement had been made on the history of relations between Iraq and Kuwait that was full of falsehoods. Anyone with any knowledge of history knew that Kuwait had been part of Iraq. A former Prime Minister of the United Kingdom had admitted that Kuwait had been removed from Iraq by the British Foreign Office. A creation of the colonialists, the al-Sabah family had ruled Kuwait until 2 August 1990, exploiting Kuwait's national wealth and putting the country's revenues into banks, casinos and the like in the United States and Europe.

91. Mr. CHADHA (India), speaking in exercise of the right of reply, said that his delegation had already responded to the points raised by the delegation of Pakistan on the status of Jammu and Kashmir. There were only two aspects of the dispute that still awaited settlement: the unwarranted interference by Pakistan in India's internal affairs and the illegal occupation by Pakistani forces of a part of the Indian State of Jammu and Kashmir.

92. Pakistan had denied fomenting terrorism within Indian's borders, yet dozens of reports supported his Government's allegation of continued Pakistani support for the Kashmiri insurgence.

93. India had always been a secular democracy that guaranteed its citizens' human rights and fundamental freedoms. Its record in that area could stand a comparison with that of any other country. Its faith in human rights and its adherence to democratic principles had always been steadfast. Unlike some other countries, it had never yielded to the temptation of abandoning democracy and lapsing into long periods of dictatorial rule.

94. Pakistan should abandon its path of confrontation and hostility and accept India's offer of friendship.

95. Mr. STEEL (Observer for the United Kingdom), speaking in exercise of the right of reply, said that none of the persons referred to by the representative of Iraq had been detained in the United Kingdom for committing a criminal act. They had been held with a view to deportation, because there was reason to believe that they might engage in acts prejudicial to the security of the United Kingdom. Surely, every delegation would agree that its Government would wish to exercise such a power in comparable circumstances. If those concerned had reason to appeal against that decision, a procedure was available for them to do so before an independent panel.

96. As to the status of former students who were treated as prisoners of war in his country, those persons had all admitted to being serving officers of the Iraqi armed forces. Thus, the United Kingdom was justified in treating them as prisoners of war. That status had not been forced upon them, but was theirs in accordance with international law, and the International Committee of the Red Cross recognized it. As such, they were also entitled to the protection guaranteed under international law.

97. He wished to point out that the delegation of Iraq had not replied to the question asked concerning its Government's failure to comply with its obligations under the Geneva Conventions.

98. Mr. AL-KADHI (Iraq), speaking in exercise of the right of reply, said that the representative of the United Kingdom had stated that Iraqi citizens had not been arrested but merely "detained", thereby admitting that they had been put into prison against their will. His delegation did not deny the United Kingdom's right to monitor Iraqi citizens, and to bring to justice any that were found to have committed illegal acts, but the United Kingdom authorities had detained the Iraqis solely on the basis of their supposed intentions. That was contrary to the domestic law of all countries, without exception.

99. According to the representative of the United Kingdom, some of the Iraqis had admitted to being officers studying in the United Kingdom, and that was the reason for their arrest. That, too, was contrary to international law and to article 4 of the Third Geneva Convention, which defined the legal status of prisoners of war. As the United Kingdom had ratified that Convention, it should comply with it.

100. The CHAIRMAN said, on a point of clarification, that on the afternoon of 1 February 1991, he had made a statement with regard to the situation of the civilian population in the occupied Arab territories. He had subsequently received expressions of concern from some delegations regarding the procedure adopted. He wished to emphasize that the statement in question had been made on a personal basis and in a strictly humanitarian context, owing to the urgent nature of the situation.

101. Consequently, that statement should not and could not be interpreted as in any way altering the practice or procedures governing the work of the Commission. He assured delegations that, before any future statement was made, he and the other officers of the Commission would follow the democratic practice of consulting the regional groups.

The meeting rose at 6.10 p.m.